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structed over a right of way sixty years after the grant of the easement, in order that the purpose of the easement might be more fully carried out. *David v. Kingscote*, 6 M. & W. 173. In the instant case, the fact that the grantee has used the right of way for more than twenty years without a bridge was a strong indication that the erection of a bridge was not reasonably necessary to the enjoyment and use of the easement. But the fact that in times of high water the stream was practically impassable for several days at a time would seem to rebut the above presumption.

STATUTES—CONSTRUCTION OF TAXATION STATUTE—ALIMONY AS CONSTITUTING INCOME.—A decree, granting a divorce *a mensa et thoro* to a husband and wife, ordered the husband to pay the wife \$3,000 per month as alimony. It was sought to tax such alimony under the federal income tax law. *Held*, alimony is not income. *Gould v. Gould*, 38 Sup. Ct. 53.

The federal act concerning the taxation of incomes provides in part that, "the net income of a taxable person shall include gains, profits and incomes derived from salaries, wages, \* \* \* or gains, profits and income derived from any source whatever, including the income from but not the value of property acquired by gift, bequest, devise or descent." Thus it will be seen that the real question to be determined is whether alimony is income within the meaning of the statute.

In the construction of statutes levying taxes, it is a well settled rule that the provisions of such statutes are not to be extended beyond the clear import of the language used, but in case of doubt they are to be construed most strongly against the government, and in favor of the tax-payer. *American Net and Twine Co. v. Worthington*, 141 U. S. 468; *Benziger v. U. S.*, 192 U. S. 38.

Alimony seems to occupy a unique place in the law. Its sole object is the provision of necessities for the support of the wife after the marriage bonds have been severed. *Romaine v. Chauncey*, 129 N. Y. 566, 26 Am. St. Rep. 544, 14 L. R. A. 712. It differs materially from a debt, and is rather a portion of the husband's estate to which the wife is equitably entitled; or, it may be regarded as a portion of the husband's current income or earnings. *Audubon v. Shufeldt*, 181 U. S. 575. Not only is it not a debt from the husband to the wife, but it cannot be subjected to the payment of the debts of the wife due third persons before the allowance of the alimony. *Romaine v. Chauncey*, *supra*. Hence, the allowance of alimony has no effect upon debts existing between the husband and wife prior to divorce. *Scott v. Scott*, 83 Conn. 634, 78 Atl. 314. And imprisonment for contempt of court for refusing to pay alimony is not imprisonment for debt. *Barclay v. Barclay*, 184 Ill. 375, 51 L. R. A. 351.

It has been held that the award of alimony is based on the ground of public policy, and that it cannot be diverted from the purpose of support without public injury. *Fickel v. Granger*, 83 Ohio St. 101, 93 N. E. 527, 32 L. R. A. (N. S.) 270. Although it seems inequitable that one receiving such a large sum of money for her support, as the wife in the

instant case, should be immune from an income tax, yet the decision seems eminently sound, especially since the net income of the husband was not decreased by the payment of the alimony.

TRUSTS—TRACING OF TRUST FUNDS—INVOLUNTARY TRUSTEE ARISING SOLELY FROM FRAUD.—A bank fraudulently induced a person to purchase a number of its shares. As soon as the purchaser discovered the fraud, he served upon the bank his notice of rescission of the contract. At no time subsequent to the sale did the bank's balance fall below the amount of such purchaser's shares. The bank was declared insolvent and a receiver appointed, the purchaser intervened to recover the full amount paid for the shares on the doctrine of tracing of trust funds. *Held*, the doctrine of tracing of trust funds does not apply. *People v. California Safe Deposit & Trust Co.* (Cal.), 167 Pac. 388. See NOTES, p. 280.